

Friday, 7 August 2026

Australian Energy Market Commission
Level 15, 60 Castlereagh Street
Sydney NSW 2000

Submission: By email

Re: CEC Submission to EPR0106; ERC0435; ERC0437 – Electricity Network Regulation Review – Package 1

The Clean Energy Council (CEC) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) Consultation Paper: *Electricity network regulation review Package 1* and the associated rule change proposals from Energy Networks Australia (ENA) and Nexa Advisory.

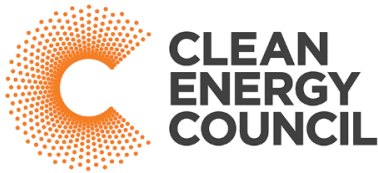
As the peak body for Australia's clean energy sector, the CEC represents and collaborates with leading renewable energy and storage companies, along with other key stakeholders in the National Electricity Market (NEM) to drive Australia's transition to a smarter, cleaner and affordable energy system.

The concurrent rule change proposals from Energy Networks Australia (ENA) and Nexa Advisory raise important questions about where the boundaries of network regulation should sit as the electricity system evolves. The ENA proposal examines service classification and whether Distribution Network System Providers (DNSPs) should roll out kerbside EV charging assets. The Nexa Advisory proposal focuses on strengthening ring-fencing protections. Together, these proposals require the AEMC to determine how regulatory frameworks can accelerate the deployment of Consumer Energy Resources (CER) in a way that delivers the right infrastructure, at the right time, at the lowest long-term cost to consumers.

Consumers are increasingly investing in CER, including Electric Vehicles (EVs), home batteries and other technologies, to reduce energy costs, improve energy resilience and for some participate more actively in the energy transition. Addressing barriers to accessing and benefiting from CER, including access to EV charging, is important for equity, consumer confidence and broader decarbonisation goals. Meeting this need efficiently depends on two things: that investment is delivered by whichever parties can do so at least cost, and that the costs of that investment are recovered in a way that reflects who benefits, rather than being socialised across all electricity consumers through network charges by default.

In the CEC's view, regulatory frameworks should support accelerated EVCI deployment by removing barriers to efficient investment and by ensuring that funding and ownership decisions are based on evidence of which approach delivers the required infrastructure at the least long-term cost to consumers.

At the same time the CEC acknowledges that ENA has identified a genuine challenge regarding the pace and availability of public kerbside EV charging, particularly for households without off-street parking.



The CEC also recognises that DNSPs may be able to support faster deployment in some circumstances because of their access to network infrastructure, existing planning processes and relationships with councils. However, speed of deployment alone does not establish that regulated funding is the least-cost path over the life of the asset. The relevant question is which delivery model provides the required charging infrastructure at the lowest total cost to consumers, whether through the regulated asset base or otherwise.

The CEC considers the appropriate policy response should therefore be practical and evidence based.

DNSPs have an important role to play in facilitating deployment, including by streamlining connection processes, enabling access to network infrastructure where appropriate, improving data transparency and coordinating with councils and other providers. Decisions arising from this review may have implications beyond EVCI deployment and could shape the long-term boundary between regulated network services and other forms of energy investment. Accordingly, the choice between regulated funding and other delivery models should turn on clear evidence of which approach addresses the identified problem at the least long-term cost to consumers. Where that evidence is incomplete or contested, the party proposing that consumers fund the investment should bear the onus of demonstrating that this is the least-cost path.

The following submission outlines how regulatory frameworks can leverage the strengths of DNSPs as essential grid facilitators while ensuring that electricity consumers fund infrastructure only where this is demonstrably the least-cost way of delivering it, and that the level of investment is matched to what the system actually requires. In the CEC's view, this approach is more likely to deliver durable, long-term consumer benefits than either excluding DNSPs in all circumstances or defaulting to consumer-funded network ownership.

Separate to this submission, we look forward to providing comments specific to Transmission in CEC's response on Tranche 2 of CEC's submission on the ENRR Package 1 Consultation.

The CEC welcomes further engagement with the AEMC in relation to these reforms. If you have any queries or would like to discuss this submission in more detail, please contact me on dmarkham@cleanenergycouncil.org.au

Kind regards

David Markham

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Executive Summary

Kerbside and public EV Charging Infrastructure

Addressing the kerbside charging challenge requires action that delivers in the long-term interests of consumers. Both Nexa and ENA recognise the need to accelerate kerbside and public EVCI, particularly for consumers without access to off-street parking. The key issue is not whether more charging infrastructure is needed, but how much is needed, when and how it should be owned, funded and regulated so consumers pay no more than is necessary to deliver it.

The CEC acknowledges ENA's concern that kerbside charging deployment may not be occurring at the same pace as EV take up. However, on the evidence provided, the CEC is not persuaded that the need establishes a case for DNSP ownership or regulated funding of EVCI as a default response. DNSPs play a vital role as grid facilitators. Priorities for network utilities should include streamlining connection workflows, publishing transparent grid capacity data, enabling non-discriminatory access to poles, and coordinating effectively with local councils. These actions can accelerate deployment at materially lower cost than regulated asset roll-out and avoid transferring commercial risk onto electricity consumers.

No single funding or ownership model should be treated as the default response to deployment challenges. The appropriate approach in each case is the one shown to deliver the required infrastructure at the least long-term cost to consumers.

Ring-fencing and cost allocation

Nexa Advisory raises valid concerns that repeated waivers and exemptions may erode the ring-fencing framework, intended to prevent regulated network costs and risks being used to support activities outside the regulated business. Where DNSPs own and operate EV charging assets, the costs and risks of that investment are underwritten by electricity consumers generally, rather than borne by those who use the service. This both raises the amount consumers are asked to fund and displaces investment that would otherwise have been made at no cost to the network.

Ring-fencing and cost allocation arrangements are therefore central to ensuring consumers fund only the infrastructure they should. DNSPs hold structural advantages that other providers do not, including access to regulated revenues, existing network infrastructure, privileged network data, established customer relationships and influence over connection and access processes. If these advantages are used to support activities outside the regulated business, consumers may be required to fund infrastructure that would otherwise have been delivered without recourse to the regulated asset base.

Recent waiver applications for community batteries and kerbside EV charging highlight these growing risks. Private investors bear the full commercial risk of investing in EVCI, whereas DNSPs may be able to draw on existing regulated assets, workforces and cost recovery arrangements, with the residual risk falling to consumers.

Nexa argues that even where DNSPs propose “open access” models, the issue is not simply whether charging service providers can access infrastructure, but whether consumers should fund infrastructure that would be delivered without regulated funding. We agree this is a central concern. Repeated waivers create “precedent creep”, gradually expanding the regulated asset base into areas where the same infrastructure would otherwise have been funded by those who also bear the direct benefits.

The CEC therefore supports ring-fencing protections and proposes that regulated funding of EVCI should occur where there is clear evidence that it delivers the required infrastructure at the least long-term cost to consumers, assessed against the alternatives on the same basis. Consistent with positions advanced by several charging industry participants and the Electric Vehicle Council during recent consultations, the CEC contends that regulators should address barriers to deployment, such as access to poles, network information, facility access and their connection processes since the relative cost of any delivery model cannot be properly assessed while those barriers persist.

Independent evidence base

The CEC recommends that the AEMC commission an independent review of whether network businesses are facilitating or impeding efficient investment in emerging energy services. The review should be conducted by an independent third party and based on confidential engagement with developers, charge point operators and other investors. Confidentiality protects those parties from potential commercial impacts by networks upon which they rely for grid access; a standard practice used by economic regulators globally.

The purpose of such a review would not be to prove a predetermined conclusion, but rather to establish an evidence base regarding whether the primary issue is the existence of barriers to privately funded deployment or a genuine absence of commercially viable investment. That distinction determines whether regulated funding is in fact the least-cost path to the required infrastructure, and it aligns closely with the AEMC’s proposed materiality and evidence-based assessment framework for the Electricity Network Regulation Review.

Key focus areas for the review should include:

- connection processes and timeframes;
- access to poles and network facilities;
- availability and quality of network information;
- data access and information asymmetries;
- coordination between DNSPs, councils and other providers;
- the effect of waivers and exemptions on investor confidence; and
- whether DNSP conduct is supporting or discouraging efficient private investment.

The CEC acknowledges that the AER has existing powers to investigate complaints and enforce ring-fencing obligations. However, complaints driven enforcement may not fully reveal whether these concerns exist.

Investors and service providers face practical barriers to lodging complaints, including commercial sensitivities, evidentiary challenges and concerns about future dealings with network businesses. Consequently, the absence of complaints should not be treated as evidence that these concerns do not exist.

Non-EVCI elements of the Nexa rule change

Beyond EVCI, the CEC sees clear value in reviewing the wider ring-fencing framework raised by Nexa Advisory. As CER matures, regulatory safeguards must evolve to ensure costs are recovered from those who benefit, to support continued innovation, and to prevent cross-subsidisation by regulated consumers across all emerging energy services; including solar, community batteries, CER orchestration, and flexibility services. The CEC supports reviewing waiver criteria, affiliate dealings, data access arrangements, branding obligations and compliance transparency.

Ring-fencing waivers should remain exceptional, granted only where a demonstrated consumer benefit cannot reasonably be achieved without regulated funding. Greater transparency is equally critical across waiver decisions, compliance monitoring and enforcement outcomes.

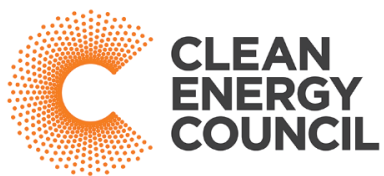
However, transferring detailed operational requirements from the AER's Ring-fencing Guideline into the Rules would be counterproductive. High-level principles belong in the Rules to provide long-term stability, while operational details should stay within AER Guidelines to preserve regulatory flexibility as technology evolves.

The CEC supports in principle:

- Fit for purpose protections against cross-subsidisation by regulated consumers;
- increasing transparency around ring-fencing compliance;
- refining waiver assessment criteria;
- guaranteeing non-discriminatory access to information and network interfaces;
- expanding reporting and audit requirements;
- clarifying affiliate dealing obligations;
- enforcing separation between regulated and unregulated activities; and
- mandating explicit testing of whether the infrastructure would otherwise be delivered before waivers are granted.

Achieving this balance requires settings safeguards for consumers from costs they should not bear, but flexible enough to respond to market development over time.

Nexa's proposed financial resilience measures, such as financial triggers, dividend lock-ups and credit metric triggers, warrant further investigation to protect consumers against speculative risks. The Australian energy sector has a long history of applying ex-ante regulatory protections where market power, information asymmetry, consumer harm or structural barriers to efficient investment exist or potentially exist. Examples include retailer authorisations, metering contestability reforms, the initial ring-fencing obligations, the consumer protection frameworks and recent DER governance arrangements.



Accordingly, the question for the AEMC now is not whether ex-ante regulation is appropriate in principle, but consideration of whether the obligations proposed by Nexa are proportionate to the consumer cost risks they seek to address. The CEC supports further investigation of this question.

The CEC also supports in principle Nexa's proposed elevation of some core ring-fencing principles into the NER; and strengthening branding and cross-promotion restrictions. However, the CEC would seek to avoid excessive prescription and to preserve the AER's flexibility to adapt detailed requirements over time.

Ultimately, the CEC broadly supports reforms that strengthen cost allocation discipline, transparency and confidence in ring-fencing arrangements, while maintaining flexibility in implementation. This ensures that consumers fund energy infrastructure only where doing so is the least-cost way of delivering it.

Response to Review questions

Question 1: Prioritisation framework for the Review

Do you have any feedback on our approach to the Review, including the proposed prioritisation framework?

The CEC supports the AEMC's proposed prioritisation framework.

In particular, the criteria relating to materiality, implementation feasibility, separability and interaction with existing processes provide an appropriate basis for prioritising reforms.

The CEC considers the framework should recognise the importance of securing the required infrastructure at the least long-term cost to consumers. Delivery by parties bearing their own commercial risk has produced substantial innovation, cost reductions and consumer choice across rooftop solar, battery storage, virtual power plants and EV charging, without recourse to regulated funding.

In this context the Commission should therefore place particular weight on whether proposed reforms improve or diminish the prospect of the required infrastructure being delivered at the least long-term cost to consumers.

Question 2: What network services should be subject to economic regulation and are changes to the service classification framework required?

2.1 What, if any, changes do you think should be made to the service classification arrangements (including the timing of when service classification decisions are made) to ensure they remain fit for purpose into the future and sufficiently flexible to accommodate the changes underway?

The CEC supports improved flexibility in service classification arrangements.

The current framework was developed when network functions were more clearly separated from services that others could provide. However greater guidance to flexibility may be needed regarding emerging technologies and services.

Any reform should determine classification on the evidence, applying the same test to regulated and non-regulated delivery. A service should be classified as regulated only where there is compelling evidence that:

- the service would not otherwise be delivered, or
- regulated provision would deliver the required service at a lower long-term cost to consumers.

The CEC conditionally to the above supports' consideration of more frequent or adaptive service classification processes where market conditions are changing rapidly.

2.2 Do you think there are any circumstances in which it would be in the long-term interests of consumers for NSPs to provide regulated services in contestable markets?

Yes, but where justified by the evidence.

Any such circumstances should be subject to the following requirements:

- clear evidence that the service would not otherwise be delivered;
- evidence that this cannot reasonably be addressed by removing barriers to deployment;
- demonstrable net consumer benefits, assessed against alternative delivery models on the same basis;
- transparent governance and sunset mechanisms.

The CEC does not support NSP provision becoming the default response simply because a service or its delivery model is still emerging.

2.3 Is additional guidance required in the NER on:

a. how the boundaries between regulated and contestable (unregulated) services should be drawn?

b. how to accommodate the new DSO role for DNSPs?

Yes. The CEC supports additional principles-based guidance clarifying that:

- regulated functions should remain narrowly defined;
- DSO functions should focus on platform, coordination and system facilitation roles;
- customer-facing services should be classified on least-cost grounds rather than by default;
- DSO responsibilities should be neutral as to technology and as to who delivers the service.

2.4 Are there any other issues with the current service classification arrangements that you think we should consider in this Review?

The interaction between service classification, ring-fencing and cost allocation requires further examination, particularly where assets may provide multiple regulated and unregulated services.

2.5 Are any other changes to the regulatory framework required to support the increasing importance of efficient and effective coordination between NSPs and other market participants?

Yes. Priority should be given to:

- improved data access;
- transparent operating interfaces;
- interoperability standards;
- non-discriminatory access arrangements.

These reforms should be prioritised; they are more likely to deliver the required capability at lower long-term cost to consumers than expanding direct NSP ownership.

Question 3: Are changes required to the ring-fencing arrangements?

3.1 How effective do you think the ring-fencing obligations have been to date, in terms of preventing the cross-subsidisation of contestable activities and discriminatory behaviour? What changes, if any, are required to ensure they remain fit-for-purpose in the future?

Ring-fencing rules could have generally been effective but increasing DNSP involvement in emerging markets has exposed weaknesses in them. The CEC considers there is merit in strengthening transparency, monitoring and enforcement, particularly in relation to data access, affiliate dealings and emerging market participation.

3.2 How effective do you think ring-fencing waivers have been to date in promoting the long-term interests of consumers? What, if any, changes do you think should be made to ensure they remain fit for purpose into the future?

Waivers remain useful but should only apply where proven necessary. The CEC supports a rigorous and transparent waiver framework requiring:

- demonstrated evidence that the service would not otherwise be delivered;
- clear consumer benefits, assessed against the alternatives on the same basis;
- defined time limits;
- regular review;
- transparent reporting.

From a CEC perspective, one of the persistent problems in these reviews is that there is often extensive debate about *potential* discrimination, *potential* information asymmetries and *potential* barriers to entry, but comparatively little systematic evidence drawn from the actual experiences of developers, charge point operators (CPOs), retailers, aggregators and DER service providers.

The CEC urges that an independently conducted review could help move the debate from assertions to evidence and would be more useful than a further theoretical debate about ring-fencing principles. Such a review could test whether market participants experience practical barriers that affect investment decisions.

Such a review could ask directly whether NSP work processes, data availability, facility access arrangements or other sources of uncertainty have affected investment decisions. This gets closer to understanding the actual impact on the cost and timing of infrastructure delivery.

An independent third-party matters, as many developers and CPOs may be more willing to speak candidly if:

- interviews are confidential;
- findings are aggregated;
- participants are protected from potential commercial repercussions.

This approach is commonly used by economic regulators internationally where participants may be reluctant to publicly criticise the network businesses on which they rely.

In the CEC view the exercise would not be designed to prove a pre-determined conclusion; it should help identify whether the primary problem is:

1. barriers to privately funded deployment, or
2. a genuine absence of commercially viable investment.

That distinction is central to whether regulated funding is in fact the least-cost path to the required infrastructure. It also fits well within the AEMC's proposed materiality and evidence-based assessment framework for the ENRR.

3.3 Are there any other problems with the ring-fencing arrangements or ring-fencing waivers that you think we should consider in this Review?

The cumulative effect of multiple waivers should be examined. Individually reasonable waivers may collectively alter market structures and investment incentives.

3.4 Do you think that there would be any change in the number of applications for ring-fencing waivers if there was more clarity around what services are distribution services and what services are not distribution services?

Yes. Improved clarity would likely limit waiver applications and improve regulatory certainty for all market participants.

Question 4: Are changes required to the connection and/or facility access arrangements?

4.1 Do you think the current connection and/or facility access arrangements are acting as a barrier to entry into contestable markets? If so, how?

Yes. Connection processes, information asymmetries, timing uncertainty and access to network facilities can create significant barriers to investment.

Similar to our responses to Question 3, an independent study should examine the practical experience of connection, facility access, information sharing and other enabling processes, and whether those processes are constraining efficient investment.

The CEC acknowledges that the AER has existing powers to investigate complaints and enforce ring-fencing obligations. However, complaint driven enforcement may not fully reveal whether these concerns exist in emerging energy services. Investors and service providers can face practical barriers to lodging complaints, including commercial sensitivities, evidentiary challenges and concerns regarding future dealings with network businesses. Consequently, the absence of complaints should not be treated as evidence that these concerns do not exist. Periodic independent market reviews, confidential stakeholder engagement and proactive monitoring may provide a more complete understanding of whether NSPs are facilitating or impeding efficient investment in emerging energy services.

4.2 Do you think changes are needed to the regulatory framework for negotiating connections and/or facility access arrangements? If so, what changes are required?

Stakeholders often assert that connection processes, access arrangements, information sharing practices or approval processes are creating barriers to efficient investment, while DNSPs often contend that existing arrangements are working appropriately or that any issues are isolated. An independent review would provide a factual basis for assessing these competing claims and identify whether developers, CPOs, retailers, aggregators and other market participants have experienced recurring difficulties that are affecting project viability, deployment timing or investment decisions.

Importantly, confidential evidence gathering exercise could reveal issues that are rarely captured through formal complaints. If common themes emerge across multiple market participants, the AEMC and AER would have a clearer evidentiary basis for considering targeted reforms rather than broad assumptions.

The review would also help distinguish between two very different policy diagnoses. The first is that investment is being constrained by barriers embedded within connection and facility access arrangements. The second is that investment is not occurring because the underlying projects are not commercially viable regardless of network processes. These diagnoses then lead to very different regulatory responses.

If the primary problem is barriers to access, then reforms should focus on improving connection and access arrangements and enabling investment. If the primary problem is the absence of viable commercial opportunities, there may be a stronger case for alternative interventions.

4.3 Are there any other service regulation related issues with the connection and/or facility access arrangements that you think we should consider in the review?

The review should consider whether access arrangements are facilitating efficient investment or inadvertently favouring incumbent network businesses.

Question 5: Are changes required to the cost allocation and/or shared asset arrangements?

5.1 Do you think that changes should be made to the cost allocation and/or shared asset arrangements? If so, what changes are required?

Yes. Carefully, the framework should better account for multi-use assets while ensuring consumers only fund costs attributable to regulated services.

5.2 How do you think the costs and benefits associated with assets, such as community batteries, should be accounted for when making cost allocation decisions?

The CEC considers that the costs and benefits associated with multi-service assets such as community batteries should be allocated in a manner that is proportionate, transparent and consistent with the principle that consumers should only fund those costs that are attributable to regulated services. Unregulated services should be effectively quarantined and should not be subsidised by regulated customers, either directly or indirectly through cost allocation methodologies that overstate the regulated value of an asset.

The energy transition will drive the deployment of assets that can simultaneously provide multiple regulated and unregulated services. Grid side batteries are a clear example. Depending on how they are operated, a single battery may provide local network support, voltage management, export hosting capacity, wholesale market participation, FCAS or system services, retailer products and customer energy services. The value streams generated by these services can vary significantly over time and may change as markets mature or operating arrangements evolve.

The CEC considers that cost allocation arrangements should reflect actual service use and actual benefit creation, rather than relying solely on assumptions made at the time the asset is initially deployed. Where a community battery generates benefits that accrue to parties operating outside the regulated business, those parties should bear an appropriate share of the associated costs. Equally, where the battery is demonstrably delivering regulated network services that avoid or defer efficient network expenditure, it may be appropriate for a proportion of costs to be recovered from regulated customers. The central objective should be to ensure that regulated customers do not bear the costs of any services that can be funded by those who benefit from them.

More broadly, the CEC considers that robust cost allocation frameworks are essential to ensuring consumers fund only the costs appropriately attributable to regulated services. Where assets provide both regulated and unregulated services, confidence in the integrity of the cost allocation process becomes critical to investment decisions by third parties. Investors need confidence that regulated revenues are not being used to support unregulated activities and that network-owned assets are not receiving advantages unavailable to other providers. Ultimately, cost allocation arrangements should support efficient investment and ensure infrastructure is delivered at the least long-term cost to consumers.

5.3 Do you think that the allocation of costs for shared assets should be revisited over time? Please explain your answer.

Yes. Static cost allocation approaches may become increasingly difficult to justify as assets become more dynamic and capable of serving multiple functions simultaneously. The CEC considers there is merit in exploring periodic reassessment of cost allocation arrangements for multi service assets, particularly where utilisation patterns, revenue streams or service provision change materially over the life of the asset.

5.4 Do you think that the current approach to cost allocation and shared asset arrangements, if maintained, should extend to negotiated services?

Not automatically. Further analysis is required to ensure incentives remain appropriate and that costs continue to be borne by those who benefit.

Question 6: Nexa rule change request - Do the ring-fencing arrangements in the NER need to be strengthened?

Do you agree with Nexa's framing of the issues raised in its rule change request? Why/why not?

The CEC broadly agrees with Nexa's central proposition that ensuring consumers fund only the costs properly attributable to regulated services should remain a core objective of the electricity regulatory framework.

The CEC considers the energy transition is increasingly occurring through investment made outside the regulated asset base. That investment has delivered substantial benefits to consumers by accelerating deployment, reducing technology costs, increasing customer choice and stimulating innovation in rooftop solar, batteries, virtual power plants and EV charging services, without adding to network charges.

The CEC agrees that the gradual expansion of DNSP participation in unregulated activities through a series of waivers, trials and exemptions has created legitimate questions regarding whether existing ring-fencing arrangements remain fit for purpose. While individual waiver decisions may be justified on their specific facts, the cumulative effect of repeated exemptions warrants the scrutiny proposed by Nexa.

The CEC is particularly concerned where DNSPs may possess advantages that are unavailable to other providers, including:

- access to consumer funded infrastructure;
- control over connection and access processes;
- privileged operational and network information;
- consumer brand trust associated with the regulated service.

The CEC does not consider these concerns justify preventing DNSPs from participating in emerging markets in all circumstances. However, permitting participation should require clear evidence that the same consumer benefits cannot be achieved at lower long-term cost through other delivery models.

Do you think that there are any deficiencies in any of the following areas of the distribution ring-fencing arrangements that need to be addressed? If so, what are the deficiencies and how material are they:

a. ring-fencing waiver conditions

Yes. The CEC considers the waiver framework requires strengthening. The current framework places significant emphasis on the costs of compliance to DNSPs and comparatively less emphasis on the long-term impacts on innovation, private sector investment and the cost consumers ultimately bear.

One of the core purposes of ring-fencing is to limit the ability of DNSPs to leverage economies of scope arising from their regulated activities into unregulated activities. DNSPs possess extensive assets, operating systems, customer interfaces, data platforms, planning functions and regulatory funding arrangements that have been developed and funded for the provision of regulated network services. Ring-fencing arrangements are intended to ensure that these advantages do not result in consumers funding services that should be financed separately from regulated activities, or in DNSPs receiving advantages unavailable to other service providers.

Recent ring-fencing waivers may have created circumstances where DNSPs are able to realise economies of scope that would otherwise have been constrained by the ring-fencing framework. For example, where a DNSP is permitted to deploy, operate or maintain community batteries, EV charging infrastructure or other emerging energy assets using existing personnel, systems, field crews, asset management capabilities and network information, its costs may be materially lower than those faced by an independent market participant that must establish these capabilities independently. While these efficiencies may appear beneficial in isolation, they raise an important policy question regarding whether the resulting advantages stem from genuine efficiency or from the DNSP's position as a regulated business.

This distinction is important because economies of scope can be both beneficial and harmful depending on how they are created and how markets are structured. If other providers are unable to access equivalent infrastructure, information, workforce capabilities or customer channels, then the existence of economies of scope may not demonstrate superior efficiency but instead reflect advantages arising from regulated ownership. In these circumstances, private investors may face a higher cost of entry and may be less willing to invest, even where they are capable of efficiently providing the relevant service. The result being reduced pressure on costs, lower levels of innovation and a greater share of infrastructure ultimately funded by consumers.

Investment decisions are being made today based on expectations of future market opportunities. A developer or charge point operator considering investment in EV charging infrastructure may not be concerned solely with whether a DNSP is competing today. Rather, investment decisions may be influenced by perceptions regarding the future role of regulated businesses in that market, their ability to access waivers, and the advantages they may derive from existing regulated operations. As a result, the cumulative effect of repeated waivers may be larger than the impact of any individual waiver considered in isolation.

This does not mean that waivers should never be granted. However, the CEC considers that waiver assessments should, amongst other things, explicitly determine whether a proposed waiver would provide the DNSP with economies of scope that are unavailable to other providers and whether those advantages could affect future investment, innovation or the cost consumers bear. These effects may be particularly important in markets such as EV charging, community batteries, flexibility services and other distributed energy services where market structures are still developing and where efficient private investment will play an important role in delivering consumer outcomes over the long term.

b. affiliate dealings and data access

Yes. The CEC considers this is one of the most material areas requiring reform. Increasingly, access to information and operational processes is becoming as important as physical access to network infrastructure.

The Commission should ensure that DNSPs and affiliated businesses cannot obtain preferential access to:

- hosting capacity information;
- connection information;
- outage data;
- flexibility services information;
- customer-related information; or
- queue positions and access arrangements.

The CEC strongly supports greater transparency and demonstrable equivalence of treatment.

c. branding and cross-promotion

The CEC supports stronger protections against consumer confusion. Where consumers perceive an affiliated business to be endorsed by the regulated network business, investment decisions may be distorted even if no formal preference exists.

The CEC therefore supports clear branding separation and stronger disclosure requirements.

d. financial resilience ring-fencing

The CEC sees merit in exploring the issue of financial resilience and whether ex-ante regulatory measures of the type proposed by Nexa are proportionate and reasonable in the context of the evolving role of DNSPs. However, the CEC considers that additional evidence should be sought before concluding that the specific measures proposed are proportionate and necessary. In particular, further analysis should evaluate the quantum of a material risk, the adequacy of existing regulatory and corporate safeguards, and the likely consumer benefits that would arise from the proposed measures.

The CEC notes that ex-ante regulation is not unusual within Australian energy markets. Numerous aspects of the existing regulatory framework are designed to address potential risks before harm occurs, rather than relying exclusively on ex-post compliance or enforcement action. Examples include retailer authorisation requirements, ring-fencing obligations, consumer protection provisions, metering contestability reforms and a range of DER governance arrangements. The rationale for these frameworks is generally that, where exclusive control, information asymmetries or systemic risks exist, preventative regulation will be more effective and less costly than attempting to remedy harm after it has occurred.

Viewed through this lens, the relevant question is not whether ex-ante measures are appropriate in principle, but whether the particular risks identified by Nexa justify the specific regulatory response proposed. The CEC acknowledges Nexa's argument that DNSPs benefit from a highly regulated revenue framework and manage assets funded by consumers through regulated charges. It is therefore reasonable to examine whether sufficient protections exist to ensure that regulated revenues, assets and risk bearing capacity are not exposed to activities that are commercial, or potentially outside the core regulated business. This is particularly relevant as networks increasingly interact with emerging energy services and markets.

At present, however, the CEC is not aware that existing safeguards have failed or that financial resilience concerns are now creating material risks to consumers. Existing economic regulation, ring-fencing arrangements, cost allocation requirements, corporate governance obligations and credit market disciplines place constraints on DNSP activities. In a review of any ex-ante financial resilience obligations, these existing mechanisms should also be assessed.

The CEC therefore supports further investigation of the issue through the ENRR process. Such analysis should examine whether there are circumstances in which financial stress, corporate restructuring, cross-subsidisation risks or increasing participation in adjacent activities could result in consumers bearing costs or risks that are not properly attributable to regulated services.

Consistent with broader regulatory principles, additional obligations should only be introduced where there is a valid potential for consumer harm, where existing safeguards are insufficient, and where the expected benefits outweigh the associated compliance and regulatory costs.

e. reporting, complaints and enforcement transparency?

The CEC strongly supports increased transparency. Confidence in ring-fencing arrangements depends not only on the rules themselves but also on visibility of compliance and enforcement actions and outcomes.

The CEC therefore supports:

- annual compliance reporting;
- public reporting of waiver outcomes;
- formal complaint pathways;
- greater emphasis on enforcement action where non-compliance is verified.

Question 7: Nexa rule change request - Would Nexa's proposed solution address the identified problem?

Do you consider that Nexa's proposals would most efficiently address the issues identified in the rule change request? Why/why not?

The CEC supports the overall direction of the proposal but considers elements of the proposed solution could be refined. The strongest aspects of the proposal are those that seek to:

- reinforce discipline in cost allocation;
- improve transparency;
- strengthen waiver decision-making;
- improve accountability.

The CEC is particularly supportive of measures that require regulated funding of unregulated activities to be justified through evidence of least-cost delivery and consumer benefit. However, some implementation details may be more appropriately maintained within the AER guideline rather than prescribed directly in the Rules.

What are your views on Nexa's proposals to amend the NER to only allow ring-fencing waivers as a last resort?

No single delivery model should be the automatic default; the test should be which approach delivers the required service at the least long-term cost to consumers.

Similarly, waivers should not become an alternative pathway by which regulated funding is extended to emerging energy services. The CEC considers a waiver should be granted where:

- there is clear evidence the service would not otherwise be delivered;
- barriers to alternative delivery have been addressed;
- consumers are likely to be better off;
- costs remain attributable to those who benefit;
- the waiver is transitional and time limited.

Are there alternative solutions that would more efficiently address the identified problem and that would be more consistent with the NEO that you think the AEMC should consider?

In the CEC's view, regulatory frameworks should support accelerated EVCI deployment by removing barriers to efficient investment and by ensuring that funding and ownership decisions are based on evidence of which approach delivers the required infrastructure at the least long-term cost to consumers.

The CEC encourages the AEMC to consider whether issues identified by DNSPs could be addressed by removing barriers to deployment, enabling investment and least cost pathways, rather than by expanding the regulated asset base. In particular:

- improved data transparency;
- improved facility access arrangements;
- standardised pole-access frameworks;
- improved connection performance;
- enhanced reporting obligations.

Question 8: Nexa rule change request - What are the costs and benefits of Nexa's proposed solution?

What do you consider the costs and benefits of Nexa's proposed solution, including the risks and benefits of elevating ring-fencing obligations into the NER?

The principal benefit of Nexa's proposal is increased confidence that emerging energy services will continue to attract investment that does not rely on regulated funding. The success of emerging markets such as EV charging, consumer batteries, virtual power plants, demand flexibility services and energy management platforms depends on investor confidence that network businesses cannot leverage their regulated position to favour affiliated businesses or regulated investments over other providers.

Stronger ring-fencing arrangements can help address this concern by providing greater certainty that investment decisions will be made on comparable terms. In particular, Nexa's proposal is likely to:

- improve investor confidence;
- reduce perceived regulatory risk;
- encourage private investment;
- support innovation and dynamic efficiency;
- reduce the likelihood of cross-subsidisation between regulated and unregulated activities;
- improve transparency around costs and asset ownership; and
- reduce concerns regarding preferential access to customer data, network information or customer relationships.

These benefits are particularly important in sectors such as batteries, EV charging, flexibility services and consumer energy management, where business models are still evolving and where investment decisions are highly sensitive to perceptions of future regulatory treatment.

Strong ring-fencing arrangements can have significant long term economic benefits. While economic regulation can be effective in delivering network services, emerging consumer energy services depend on innovation, experimentation and business model diversity. Investors are less likely to commit capital where there is uncertainty about whether a regulated business may subsequently enter with access to customer funded capital, privileged information, established customer relationships or a lower cost of finance.

International experience generally supports Nexa's approach. Energy market reforms in Europe have progressively strengthened "unbundling" requirements between monopoly network activities and potentially competitive services. The European Union's electricity market framework is founded on the principle that network operators should remain independent from competitive generation, retail and other contestable market activities in order to prevent discrimination and ensure fair competition. Regulators have consistently recognised that vertically integrated monopoly businesses may have incentives to favour their own competitive interests through information advantages, operational practices or investment decisions.

The trend in Europe has largely been towards increasing separation and stronger compliance obligations as distributed energy markets have matured. The Council of European Energy Regulators has repeatedly reviewed and strengthened implementation of transmission and distribution system operator unbundling requirements, including requirements relating to branding, governance, staffing, information sharing and financial independence.¹

Similarly, in Great Britain, Ofgem has continued to review and strengthen energy network ring-fence arrangements to protect consumers and investors and ensure regulated network businesses remain financially and operationally separate from other activities. Recent reviews have explicitly focused on

¹ [CEER report](#)

strengthening ring-fence licence conditions and improving resilience and governance arrangements as energy markets become more complex.²

In the United States, several jurisdictions have adopted or strengthened affiliate transaction rules and utility codes of conduct as utilities take on broader system coordination functions associated with distributed energy resources. New York's distributed energy reforms, for example, were accompanied by extensive codes of conduct and affiliate rules designed to ensure utilities do not favour their own competitive interests or affiliated service providers in emerging distributed energy markets.

Collectively, these international examples demonstrate that as consumer energy markets become more important, regulators typically respond by strengthening safeguards around regulated network participation rather than relaxing them.

The primary risk of Nexa's proposal is that excessive prescription could reduce regulatory flexibility, increase compliance costs and potentially inhibit future regulatory innovation. A highly prescriptive framework may require frequent amendment as technologies and business models evolve, potentially creating complexity for both industry participants and regulators.

The CEC therefore favours a balanced approach whereby:

- high-level principles and core safeguards are embedded in the NER; and
- implementation details remain capable of evolving through the AER guideline process.

Such an approach would provide greater certainty to investors and market participants regarding the fundamental separation between regulated and unregulated activities, while retaining sufficient flexibility for the AER to respond to changing market conditions and emerging technologies over time. In the CEC's view, the long-term costs of lower strength ring-fencing arrangements are likely to exceed the costs of modest additional compliance obligations. Once investment is deterred or distorted by real or perceived advantages arising from regulated ownership, those impacts can be difficult and costly to reverse. This has been anticipated internationally in well-designed ring-fencing arrangements that are foundational requirements that support innovation and efficient private investment in the consumer energy resources sector.

² [Energy Networks Ring-fence Review - Policy decision](#) The proposed licence condition in relation to the dividend distribution certificate specifically states the licensee must be in compliance in all material respects with the obligations imposed on it prior to making a dividend payment or other form of distribution. This prevents the licensee making dividend payments or other forms of distributions when the licensee is not in compliance. Ofgem 6 July policy paper no longer consider this measure is required, as the licence already prohibits dividend distributions when a licensee is not in compliance with a suite of licence conditions. As part of the ring-fence review, Ofgem have modified licence conditions which now references material compliance with all ring-fence conditions as the condition instead.

Question 9: ENA rule change request - Do you agree with ENA that there is a problem with the roll out of EVCI?

Do you think that there is a ‘chicken and egg’ problem with EVs and kerbside EVCI?

While access to charging remains an important consideration for households without off-street parking, the available evidence indicates that the vast majority of EV owners continue to rely primarily on home charging. In Australia, the Department of Climate Change, Energy, the Environment and Water (DCCEEW) reports that EV owners charge at home around 80% of the time³, through either an installed EV charger or a standard power point. The average Australian drives 33km a day, making a standard power point likely sufficient to meet charging needs.⁴

Similar patterns are observed internationally. In the United States, the International Energy Agency estimates that approximately 83% of EV charging occurs at home.

These findings suggest that EV adoption has been able to grow substantially despite assertions of relatively limited kerbside charging availability. The evidence therefore points to a need for targeted solutions for those consumers who cannot access home charging, particularly apartment residents, renters and households without off-street parking⁵ rather than immediately asserting that regulated ownership of kerbside charging infrastructure is required to support EV uptake. Public and kerbside charging play an important complementary role, but their function is primarily to address specific access gaps and provide convenience, not to replace the dominant model of residential charging.

Accordingly, the current evidence is more consistent with a market that is progressing through the normal stages of technology adoption and infrastructure deployment than with an enduring structural problem that would justify consumers funding EV charging infrastructure through network charges.

How should the problem be best addressed and do you think this should be funded by electricity consumers or other mechanisms?

To properly assess which delivery model will lead to the best long-term consumer outcomes, the barriers which are adding cost and complexity need to be addressed and removed.

This should include:

- streamlined access to utility poles;
- faster and more predictable connection processes;
- planning and permitting reform;
- improved coordination between local governments, DNSPs and charging providers;
- access to data on network capacity and suitable locations;

³ [National Electric Vehicle Strategy - Annual Update 2024-25](#)

⁴ [How to charge your electric vehicle | energy.gov.au](#)

⁵ EVC initiative ‘EV Friendly Towns’ [EV Friendly | EV Friendly Towns Awards Program](#). Changes to the National Construction Code to ensure new apartment buildings are ‘EV capable’, Victorian government release of a [Owners Corporation ‘EV-ready guide’](#) stepping out the requirements to installing EVCI

International experience demonstrates that these measures can support substantial deployment of kerbside charging without requiring ownership by electricity network businesses or funding through network charges.

The most effective role for regulated energy businesses is often to act as facilitators rather than asset owners. Removing administrative barriers, providing access to appropriate sites, streamlining connection processes and addressing information asymmetries can materially improve investment certainty and lower the cost of deployment.

Accordingly, the CEC considers that regulated customer funding is best contemplated where there is compelling evidence that:

1. the infrastructure would not otherwise be delivered;
2. other providers are unable to deliver an efficient solution despite the removal of regulatory and deployment barriers; and
3. the long-term benefits to consumers clearly outweigh the cost of funding the infrastructure through network charges and the risk of displacing investment that would otherwise have been privately funded.

Before regulated customer funding is adopted, consideration should also be given to whether more targeted policy mechanisms address the identified accessibility challenge at lower cost and with fewer risks to consumers. Targeted programs funded through general taxation may provide a more proportionate means of supporting renters, apartment residents and households without access to off-street parking, while preserving incentives for innovation and private investment.

Examples of current approaches include:

- the Australian Government's *Driving the Nation* program, administered by ARENA, which has provided \$2.4million in funding to support public charging infrastructure, including kerbside charging and charging on priority transport corridors;⁶ and
- the NSW Government's *Electric Vehicle Strategy*, which has supported the rollout of public charging infrastructure, including kerbside charging, through targeted grant funding⁷.

These examples demonstrate that governments have mechanisms available to address specific deployment gaps without requiring the costs to be recovered through ongoing network charges.

⁶ [Driving the Nation Fund - DCCEE](#)
⁷ [NSW Electric Vehicle Strategy April 2026](#)

Do you think that DNSPs could roll out kerbside EVCI at a lower cost and faster rate than other providers, if the proposed rule were made?

Possibly. However, lower deployment costs or faster delivery alone do not demonstrate that regulated funding represents the lowest-cost solution over the life of the asset or that it will deliver the greatest long-term benefit to consumers.

DNSPs may possess certain advantages that could enable them to deploy kerbside EVCI more quickly in some circumstances. These advantages may include established relationships with councils and permitting authorities, existing access to street level electrical infrastructure, established internal processes, and the ability to recover approved expenditure through regulated funding arrangements.

However, these advantages should not be overstated. The physical deployment of kerbside EVCI still requires planners, designers, electricians, civil contractors, project managers and equipment suppliers. Efficient DNSPs do not have unlimited internal workforce capacity, nor are they insulated from the labour, contractor and supply chain constraints affecting the wider economy. In practice, a large scale DNSP rollout would likely draw upon many of the same external contractors and resources that are currently available to competitive charging providers.

This raises an important question: if workforce and construction capacity are already constrained, does transferring deployment responsibility to DNSPs increase total delivery capacity, or does it simply reallocate scarce resources away from other existing and prospective providers?

Further, any cost advantage arising from DNSP ownership may not necessarily reflect efficiency. It may instead stem from advantages associated with regulated status, including access to customer funded capital, lower financing costs, established regulatory frameworks, and the ability to leverage existing regulated assets and functions. These advantages lower the DNSP's own costs by shifting risk to consumers; they do not necessarily reduce the total cost of delivering the infrastructure.

The key question is therefore not whether a DNSP can deploy a particular charger faster or at lower cost than a private provider today. Rather, the relevant policy question is whether consumers are better off in the long term under:

- delivery funded by those who use the service; or
- delivery funded by electricity consumers through network charges.

The first places commercial risk on investors rather than electricity consumers, and creates incentives for innovation, cost reduction, differentiated service offerings and ongoing investment by multiple parties.

The second carries a range of risks. For consumers, it could result in commercial risks being socialised across the broader customer base, including consumers who do not use EV charging services. There is also a risk that, once assets enter the regulated asset base, consumers continue to fund them even as lower-cost alternatives emerge. More broadly, the approach may displace investment that would otherwise have been privately funded, reduce incentives for innovation, and limit opportunities for new and potentially more efficient business models to emerge.

The CEC therefore considers that assessment of DNSP involvement should focus on whether regulated funding produces enduring net benefits for electricity consumers, accounting for impacts on innovation, private investment and the total cost of delivery. The existence of potential short term deployment advantages alone does not provide sufficient justification for consumers funding that infrastructure in a sector that is still developing and where lower-cost alternatives continue to emerge.

Question 10: ENA rule change request - Would the ENA's proposed solution address the identified problem?

Do you consider the ENA's proposal to amend the NER to enable DNSPs to install, own and maintain EVCI and to provide distribution EVCI services on an open access basis would most efficiently address the issue identified in the rule change request? If not, why?

As it stands, the CEC does not consider that the case has been made for reclassifying kerbside EVCI as a regulated distribution service. No delivery model should be the automatic default. While regulated ownership may have a role in some circumstances, the evidence presented has not demonstrated that regulated funding would represent the lowest-cost or most efficient long-term outcome for consumers.

The proposal seeks to address a deployment problem by expanding the regulated asset base. The CEC considers the Commission should first address the barriers that raise the cost of deployment, since the relative cost of each delivery model cannot properly be assessed while those barriers persist.

Do you consider that the distribution EVCI service identified by ENA should be a 'distribution service'? Why/why not?

The CEC is not persuaded that ownership of EV charging infrastructure constitutes a core distribution service. The fact that infrastructure is connected to, or attached to, network assets does not automatically make ownership of that infrastructure a distribution service.

The Commission has historically distinguished between regulated network functions and customer-facing services. EVCI is fundamentally intended to facilitate the provision of charging services to customers.

While the distribution network performs an essential regulated function, the ownership and operation of charging infrastructure can be delivered through a range of alternative arrangements without regulated funding. The CEC therefore considers that reclassifying EVCI ownership as a regulated distribution service would represent a significant departure from long-standing regulatory principles and should only occur where there is clear evidence that it would deliver the right long-term outcomes for consumers.

If the ENA's proposed rule change was to be made, do you think any constraints or time-limits should be imposed?

Yes. Any DNSP participation should be:

- targeted;
- evidence-based;
- subject to sunset provisions;
- periodically reviewed.

The CEC is not supportive of an open-ended expansion of regulated ownership of EV charging infrastructure. DNSP ownership outside of their regulated services should be limited to the circumstances that have clearly demonstrated the need, and where ongoing consumer benefit can be established.

Question 11: ENA rule change request - What are the costs and benefits of ENA's proposed solution?

What do you consider the direct and indirect costs and benefits over the short and longer term would be of the ENA's proposal to amend the NER to enable DNSPs to roll out EVCI and to provide EV charging service providers open access to EVCI services?

The CEC acknowledges potential short-term benefits. But as noted above, efficient DNSPs do not have unlimited internal workforce capacity, nor are they insulated from the labour, contractor and supply chain constraints affecting the wider economy. So, in practice, a large scale DNSP rollout would likely draw upon many of the same external contractors and resources that are currently available to competitive charging providers. This may include earlier coverage in underserved areas.

However, the longer-term risks are potentially more significant. These include:

- increased consumer exposure to commercial and technology risks;
- reduced private investment;
- reduced innovation; and
- weaker pressure on costs and service quality.

The proposal also risks creating incentives for continued expansion of assets into the regulated asset base where equivalent services could be delivered without consumer funding. The long-term costs of that expansion may ultimately outweigh any short-term deployment benefits.

Do you think these costs and benefits would differ depending on whether the AER classifies the service as a standard control service or an alternative control service?

Yes. The consumer impacts would differ depending on the classification.

Classification as a Standard Control Service (SCS) raises much greater concerns. Under an SCS approach:

- costs would be recovered from all electricity consumers;
- investment risks would be transferred to regulated customers;
- incentives to minimise costs and respond to changing technology and consumer needs may be weaker.

Classification as an Alternative Control Service may mitigate some concerns, however, the fundamental question remains whether regulated ownership of EVCI has been demonstrated to be the most efficient long-term approach for consumers.

Question 12: Assessment criteria

12.1 Do you agree with the proposed assessment criteria, which would be used for both the Nexa and ENA rule change requests and the Review?

The CEC supports the proposed assessment criteria. The Commission should place particular emphasis on:

- long-term consumer outcomes;
- dynamic efficiency and the total cost of delivery;
- innovation;
- regulatory proportionality.

Durable consumer benefits are most likely where the required infrastructure is delivered in the right quantity, at the right time, and at the least long-term cost. This should be the primary test applied when assessing both rule change requests.